IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO.221 OF 2002

The Commissioner of Income-tax-I,
Mumbai City-V, Mumbai .. Appellant

v/s.

M/s. Spaco Carburettors (India)
Ltd. .. Respondent

Mr.K.R.Chaudhary i/by Mr.H.D.Rathod for appellant.

Mr.RAK Najaam Saani for respondent.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 27th August, 2004

P.C.

Heard Mr. K.R.Chaudhary, the learned counsel

for the revenue.

2. In the memorandum of appeal, two questions of

law have been proposed which read thus-

"1. Whether on the facts and in the circumstances of the case and in law, the Tribunal was right in law in confirming the order of the CIT(A) in deleting the disallowance of Rs.1,43,301/- made under Rule 6B of the Income Tax Rules the expenditure incurred on presentation of articles and gifts that they did not bear any logo or name of the assessee and further failed to appreciate that every article presented at least carried a visiting card of the top executives of the company which itself tantamount to advertisement?

2. Whether on the facts and in the circumstances of the case and in law the Tribunal was right in law in

confirming the order of the CIT(A) in deleting the addition of Rs.9,64,302/- made by the assessing officer to the value of Closing Stock on account of unutilised modvat credit?"

3. The learned counsel for the revenue could not dispute that the controversy raised in proposed question No.1 is concluded by the judgment of this court in the case of Commissioner of Income Tax v. Allana Sons Pvt.Ltd., 216 ITR 690. The question No.1, thus, cannot be said to be substantial question of law.

4. As regards the proposed question No.2, we find that the said question stands concluded by the judgment of the Apex Court in the case of Commissioner of Income Tax v. Indo Nippon Chemicals Co.Ltd., 261 ITR 275.

5. The appeal, therefore, does not deserve to be admitted and is dismissed.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)